

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Mustaq Ali Vs. State of Rajasthan & Anr.

S.B. CRIMINAL REVISION NO. 328/2006
against the Order dated 12.4.2006 passed
by Additional Sessions Judge, (Fast Track) No.1,
Jodhpur in Sessions Case No. 27/2006.

Date of Order : 01/06/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Abdul Latif & Mr. K.K.Vyas for the petitioner.
Mr. J.P.S.Choudhary, P.P. for the State.
Mr. Manjul Shrimali for the complainant.

BY THE COURT:-

By an application being S.B.Criminal Misc. Application
No. 305/06, the petitioner seeks to implead Ikramudeen and
Mohd. Sabir as petitioners No.2 and 3 in the instant revision
petition.

For the reasons mentioned in the application, the
application is allowed. Amended cause title has been filed, the
same be placed at appropriate place in the file.

With the consent of learned counsel for the

petitioners, public prosecutor and counsel appearing for the complainant, the revision petition itself is finally heard and being decided at the admission stage.

By the instant criminal revision petition under Section 397 Cr.P.C., the accused petitioners have challenged the order dated 12.4.2006 passed by Additional Sessions Judge (Fast Track) No.1, Jodhpur (for short 'the trial court' hereinafter) in Sessions Case No. 27/2006, whereby the trial court framed the charges against the petitioners No.1 Mushtaq and No.2 Mohd. Sabir for the offences under Sections 341, 324 and 307 IPC and against petitioner No.3 Ikramudeen for the offences under Sections 341, 324/34 and 307/34 IPC. Aggrieved by the order impugned, the petitioners have filed the instant revision petition.

Heard learned counsel for the parties. Perused the order impugned and challan papers. I have carefully gone through the injury report of injured Mahendra Kumar Saraswat. Injured Mahendra Kumar appeared before this Court on 29.5.2006 and filed an application seeking permission to compound the offences as also compounding the offence, under Section 320 Cr.P.C.. The compromise has been verified by Deputy Registrar, Judicial. The complainant was identified by his counsel Mr. Manjul Shrimali. Before me also, the complainant

stated that he has compromised the matter with the petitioners. The injured suffered two injuries. He was examined by the Radiologist and there was no evidence of any bony injury, therefore, both the injuries are simple in nature. The occurrence took place on the spur of moment. On careful perusal of the statement of injured and other witnesses, there is no evidence to presume that the petitioners inflicted injuries to injured Mahendra Kumar with such intention or knowledge, and under such circumstances that, if they by that act caused death, they would be guilty of murder. Thus, the very essential ingredients for the offence under Section 307 IPC and Section 307/34 IPC are not made out.

Having regard to the facts and circumstances of the case, in my view, the offences under Sections 307 and 307/34 IPC are not made out and therefore, there is no ground to presume that the petitioners committed the offences punishable under Section 307 and 307/34 IPC.

In this view of the matter, the order impugned dated 12.4.2006 to the extent framing charge against the petitioners No. 1 and 2 for the offence under Section 307 IPC and against petitioner No.3 for the offence under Section 307/34 IPC deserves to be set aside.

Consequently, the revision petition is partly allowed. The order impugned dated 12.4.2006 to the extent framing charge against the petitioners No. 1 and 2 for the offence under Section 307 IPC and against petitioner No.3 for the offence under Section 307/34 IPC is set aside. However, the charges framed by the trial court for the remaining offences are maintained.

(H.R.PANWAR),J.

rp